

Testimony of the Honorable Cedric L. Richmond, Member of Congress
United States Senate Committee on the Judiciary,
“Attorney General Nomination”
Wednesday, January 11, 2017
9:30 A.M.

I would like to thank the Chairman and Ranking Member for allowing me to testify. The Senate's duty to provide advice and consent to presidential nominees is a fundamental component of American democracy. I know that you do not take this responsibility lightly. Before I jump into my substantive testimony I want to address two timely issues.

I want to first express my concerns about being made to testify at the very end of this set of witness panels. To have a Senator, a House Member and a living civil rights legend testify at the end of all this is the equivalent of being made to go to the back of the bus. It is a petty strategy and the record should reflect my consternation at the unprecedented process that brought us here. My record on equality speaks for itself and I don't mind being last, but to have living legend John Lewis handled in such a fashion is beyond the pale and the message sent by this process is duly noted by me, the 49 Members of the Congressional Black Caucus and the 78 million Americans and over 17 million African-Americans that we represent.

Further, on the issue of Sen. Sessions' record prosecuting "the Marion 3" stemming from a complaint filed by African-Americans, I say the following. History is replete with efforts by those in power to legitimize their acts of suppression and intimidation of black voters by recruiting other blacks to assist in bringing trumped-up charges against law-abiding citizens who are engaged in perfectly legitimate voter education and empowerment activities. Those tactics were effectively used against former Congressman Robert Smalls and hundreds - if not thousands - of black office holders and landowners, in our post Reconstruction Era and they were used several years ago against Mr. and Ms. Alfred Turner who were discussed by this Committee yesterday. I just wanted to address that.

The Declaration of Independence set forth the ideal of universal equality that rests at the heart of our democracy. But it is the Fourteenth Amendment to our Constitution and its Equal Protection Clause that has helped bring us closer to fulfilling that foundational principle. All cabinet officials have a responsibility to protect the interests of all the

American people, but there is no office for which the duty to apply the law equally is greater than that of the Attorney General. In my capacity as Chairman of the Congressional Black Caucus I urge you to reject Sen. Sessions' nomination.

Last week, I was sworn in as the Chair of the Congressional Black Caucus. For more than 45 years, we have been known as the "Conscience of the Congress," and have worked to improve conditions for African-Americans across the country. Our Members represent over 78 million Americans and over 17 million African-Americans. That's 24% of this nation's total population and 41% of all African-Americans across the country. The experiences and realities of our constituents are as broad and diverse. One thing that we all share, however, is that all of our lives have been impacted tremendously by the work and mission of the Department of Justice.

Throughout our nation's history, Attorney Generals have used the resources of the federal government to vindicate the rights of the most vulnerable in society. After the Civil War, the first Attorney General to lead the DOJ, Amos Akerman, prosecuted the KKK for its widespread

use of violence aimed at suppressing the black vote. This facilitated massive black voting turnout in 1872. For the first time in our nation's history, former slaves were afforded the opportunity to participate in the democratic process, cementing the transition from slave to citizen.

In the 1950's, President Eisenhower's Attorney General helped pass the Civil Rights Act of 1957, which created the Civil Rights Division at DOJ. This was the first significant effort by to protect the constitutional rights of black Americans since the Reconstruction era. In the 1960's, Attorney General Robert F. Kennedy started the process that would eventually produce the Civil Rights Act of 1964 in the next administration.

Nicholas Katzenbach served as Attorney General under President Lyndon B. Johnson, and enforced the provisions of the Civil Rights Act of 1964 and the Voting Rights Act of 1965. He defended the statute in litigation, fighting to uphold the law's provisions protecting citizens from voter suppression laws.

More recently, Eric Holder became the nation's first black Attorney General. He led the Smart on Crime Initiative, working to

address disparities within the criminal justice system. He also worked to create accountability measures for law enforcement entities that engaged in rampant misconduct.

The bottom line is that personnel matters. A great leader in the position of Attorney General can mean the difference between a robust effort to protect the rights of the aggrieved or a decision to neglect them. The Attorney General must carry the banner of justice for all Americans, including those who have been underserved and underrepresented. It is through this lens that we must examine this nomination.

In 1986, Senator Sessions' nomination to become a U.S. District Judge was rejected by this Committee. Despite the fact that a Republican-controlled Judiciary Committee deemed Sessions too regressive on issues of race and civil rights to serve as a district court judge, he has been nominated to serve as Attorney General.

Let me be clear. Sen. Sessions should not be disqualified from assuming this position simply because of a failed confirmation 30 years ago. He should be confirmed or denied based on his record and the policies he can be expected to pursue. When it comes to issues of justice,

equality, and civil rights, Sen. Sessions' record is simply abhorrent. Simply put, he has advanced an agenda that will do great harm to African-American citizens and communities. For this reason, the CBC believes Sen. Sessions should be disqualified.

Jeff Sessions has demonstrated a total disregard for the equal application of justice and protection of the law as it applies to African-Americans and falls short on so many issues.

On matters related to police accountability he falls short. He has dismissed the concerns of the Black Lives Matter movement. He has supported efforts to curb private rights of action against police brutality. He has called consent decrees a “dangerous exercise of raw power” and an “end run around the democratic process.” Without consent decrees, it is unlikely that the citizens of Ferguson, Cleveland or Baltimore would ever see relief from police departments that DOJ found to be engaged in patterns and practices of unconstitutional conduct.

On the issue of diversity in the legal profession, he falls short. In 1994, he filed a federal court objection to a plan that would add black judges to state appeals courts. He said the plan created a ‘racial quota’ for the courts, took away voters’ rights to elect judges and protected

incumbent judges. To this day, there has not been a single African-American judge on Alabama's appellate courts.

On issues of felony disenfranchisement, he falls short. Nearly 6 million Americans can't vote because of a past felony conviction. Black Americans are four times more likely to be impacted by felony disenfranchisement laws. In 2002, Sen. Sessions opposed legislation that would have restored felons' right to vote after they had completed their sentences.

On education, he falls short. As Alabama's Attorney General, he fought to preserve an unconstitutional school funding system and maintain a segregated school system. In Alabama, thanks in part to the efforts of Sen. Sessions, nearly a quarter of African-American students now attend apartheid schools—meaning schools whose white population is 1 percent or less.

Jeff Sessions supports a system of mass incarceration that has disproportionately targeted African-Americans citizens and devastated African-American communities.

In 1971, President Nixon declared a War on Drugs. At the time of this declaration, America's prisons and jails held fewer than 200,000

people. Today that number sits at over 2,000,000. The burdens of this failed war have fallen overwhelmingly on black communities.

In the 114th Congress, Members of both Chambers made strides towards the passage of bipartisan criminal justice reform legislation. Sadly, the legislation stalled due in large part to the opposition of Sen. Sessions and others. He questioned whether the legislation would “send a message...that we’re not interested in people serving sentences anymore” as “the crime rate is beginning to go up.” This is a strange reason to oppose modest, bipartisan legislation given that the U.S. crime rate is at a historic low.

His opposition should come as no surprise given his record on issues of crime and justice. He has supported the harsh truth-in-sentencing laws and mandatory minimums that are the primary drivers of mass incarceration. In 2002, he expressed his belief that our country has benefited from the War on Drugs and reaffirmed this in 2015. His willingness to declare drug enforcement policies that have devastated African-American communities across the country a “success” should be disqualifying.

Jeff Sessions cannot be relied upon to enforce the Voting Rights Act

He calls the Voting Rights Act a "piece of intrusive legislation." He has criticized the bill's critical Section 5 pre-clearance provisions. When the Supreme Court gutted these provisions in *Shelby County v. Holder*, he said the decision was "good news ... for the South." He stated, "if you go to Alabama, Georgia, North Carolina, people aren't being denied the vote because of the color of their skin." In the wake of that ruling, every single one of the states Sessions mentioned passed voting restrictions that disproportionately affected racial minorities.

In his decades-long career in public life, Sen. Jeff Sessions has proven himself unfit to serve in the role of Attorney General of the United States of America.

I would not have the opportunity to testify today if not for men like John Lewis who was beaten within an inch of his life in pursuit of the right to vote for African-Americans. It's a shame that he must sit here more than 50 years later to defend the rights he fought so hard to gain. We sit here as the progeny of men and women who were bought, sold, enslaved, raped, tortured, beaten, and lynched. Black people were

bought as chattel and considered three-fifths of a human being.

However, we have been able to endure and largely overcome that history thanks in part to brave men and women, both Democrat and Republican, who sat where you sit and cast often difficult votes for freedom and equality. These Senators fought public opinion and even their own party to do what was right. I come before you today asking you to do the same.

Now you all must face a choice: be courageous or be complicit. If you vote to confirm Senator Sessions, you take ownership of everything he may do *or not do* in office. He has no track record of fighting for justice for minorities, despite the characterizations you have heard from others today. He and his supporters have told you he is a champion for civil rights and equality. Characterization and revisionist histories are not the same things as facts. He is on the record on numerous issues. I have provided just a few examples today. Let's think about this logically. If he were in fact a champion for civil rights, wouldn't the civil rights community support his nomination instead of speaking with one voice in near unanimous opposition?

Each and every Senator who casts a vote to confirm Sen. Sessions will be permanently marked as a co-conspirator in an effort to move this country backwards towards a darker period in our shared history. So I ask you all, where do you stand? It is clear from Sen. Sessions' record where he stands. Will you stand with him and allow history to judge you for doing so? I implore you all to weigh these questions properly as you prepare to cast what will be one of the most consequential votes in your time as a United States Senator.